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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,684	09/08/2006	Serge Kurowski	Q96003	8969
23373	7590	04/12/2011	EXAMINER	
SUGHRUE MION, PLLC			WOOD, KIMBERLY T	
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20037			3632	
			NOTIFICATION DATE	DELIVERY MODE
			04/12/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APR 11 2011

Sughrue Mion, PLLC  
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Suite 800  
Washington, DC 20037

In re Application of : DECISION ON THE PETITION  
Serge Kurowski : REQUESTING WITHDRAWAL  
Application No. 10/598,684 : OF FINALITY  
Filed: September 8, 2006  
For: DEVICE FOR SUPPORTING A ROTATING  
FRAME OF A FILTRATION INSTALLATION

This is a decision on applicant's petition under 37 CFR 1.181, filed April 4, 2011, that requests withdrawal of the finality of the first Office action mailed February 4, 2011.

The petition is GRANTED.

A review of the file reveals that a non-final Office action that rejected claims 1-3, 6-9 and 11-12 under 35 USC 112, 2<sup>nd</sup> paragraph was mailed on August 23, 2010. The applicant responded with an amendment on November 23, 2010. A Final rejection that rejected claims 1-3, 6-9 and 11-12 under 35 USC 112 2<sup>nd</sup> paragraph mailed February 4, 2011. An after-final response to the above-noted Office action was received on April 4, 2011. The instant petition was also filed on April 4, 2011.

Applicant's petition argues that the finality of the Office action of February 4, 2011 is premature due to the fact that the examiner raised new rejections on claimed subject matter that was effectively unamended in the preceding amendment dated November 23, 2010. The applicant argues that adding new rejections under 112 2<sup>nd</sup> paragraph on subject matter that was present in the claims as originally filed would preclude the holding that these new rejections were necessitated by the applicant's amendment and would mandate a non-final Office action. Applicant's petition points out at least 3 separate instances of language that was not indicated as being indefinite in the non-final Office action of August 23, 2010, was unaltered in the amendment of November 23, 2010, and was indicated as being indefinite in the Final Office action of February 4, 2011.

Applicant's arguments are well-taken. The examiner not pointing out the indefiniteness of the above noted examples cannot now make new rejections and make such an Office action final. Contrary to the examiner's Office action these newly raised indications of indefiniteness were not necessitated by amendment. The examiner providing the stipulation in the non-final Office action of putting the applicant on notice that "...the examiner may not have pointed out each and every example of

indefiniteness...applicant is required to review all the claim language to make sure the claimed invention is clear and definite", cannot serve as license to raise new rejections of indefiniteness under 112, 2<sup>nd</sup> paragraph and indicate them as necessitated by amendment. For this reason the finality of the rejection was premature.

The finality of the action mailed February 4, 2011, but not the action itself, is hereby withdrawn. As a result the after-final amendment of April 4, 2011 is entered as a matter of right. The application will be forwarded to the examiner of record for treatment on the merits of the now entered amendment of April 4, 2011.

The petition to withdraw the finality of the February 4, 2011 Office action is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Quality Assurance Specialist, Steven Meyers at (571) 272-6611.

Katherine Matecki

Katherine Matecki, Director  
Patent Technology Center 3600  
(571) 272-5250

Snm/snm: 4/10/11

*SM*